

1 **14-2204. Aggravated assault on a peace officer; attempted battery with intent to commit a**
2 **felony; essential elements.**

3 For you to find the defendant guilty of aggravated assault on a peace officer with intent to
4 commit _____¹ [as charged in Count _____]², the state must prove to your
5 satisfaction beyond a reasonable doubt each of the following elements of the crime:

6 1. The defendant intended to commit the crime of battery against _____
7 (*name of peace officer*) by _____³;

8 A battery consists of intentionally touching or applying force in a rude, insolent, or angry
9 manner.⁴

10 2. The defendant began to do an act which constituted a substantial part of the battery
11 but failed to commit the battery;

12 3. The defendant also intended to commit the crime of _____¹;

13 4. At the time, _____ (*name of peace officer*) was a peace officer and
14 was performing duties of a peace officer⁵;

15 5. The defendant knew _____ (*name of peace officer*) was a peace
16 officer;

17 6. This happened in New Mexico on or about the _____ day of
18 _____, _____.

19

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USE NOTES

21 1. Insert the name of the felony or felonies in the disjunctive. The essential elements
22 of each felony must also be given immediately following this instruction. To instruct on the
23 elements of an uncharged offense, UJI 14-140 NMRA must be used.

1 2. Insert the count number if more than one count is charged.
2 3. Use ordinary language to describe the touching or application of force.
3 4. If the “unlawfulness” of the act is in issue, add unlawfulness as an element as
4 provided by Use Note 1 of UJI 14-132 NMRA. In addition, UJI 14-132 NMRA is given. If the
5 issue of “lawfulness” involves self-defense or defense of another, *see* UJI 14-5181 to UJI 14-5184
6 NMRA.

7 5. “Peace officer” is defined in Subsection C of Section 30-1-12 NMSA 1978. If there
8 is an issue as to whether or not the victim was a peace officer, give UJI 14-2216 NMRA, which
9 defines “peace officer.” If there is an issue as to whether the officer was within the lawful discharge
10 of the officer's duties, an instruction may need to be drafted. The mistake of fact referred to in prior
11 UJI 14-2216 NMRA has been incorporated into this instruction as an element. If some other
12 mistake of fact is raised as a defense, *see* UJI 14-5120 NMRA.

13 [Adopted, effective October 1, 1976; UJI Criminal Rule 22.03 NMSA 1978; UJI 14-2204 SCRA;
14 as amended, effective January 15, 1998; as amended by Supreme Court Order No. 10-8300-039,
15 effective December 31, 2010; as amended by Supreme Court Order No. 16-8300-008, effective
16 for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order
17 No. 20-8300-004, effective for all cases pending or filed on or after December 31, 2020.]

18 **Committee commentary.** — *See* NMSA 1978, § 30-22-22(A)(3) (1971). This crime
19 includes the elements of an aggravated assault with intent to commit a felony. *See* commentary to
20 UJI 14-308, 14-309, and 14-310 NMRA. *See also* commentary to UJI 14-2201, 14-2202, and 14-
21 2203 NMRA.

22 This instruction was amended in 2010 to be consistent with *State v. Nozie*, 2009-NMSC-
23 018, 146 N.M.142, 207 P.3d 1119.

1 [As amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010.]